

Ryan Lee, Esq. (SBN 024846)
Krohn & Moss, Ltd.
10635 Santa Monica Blvd. STE 170
Los Angeles, CA 90025
T: (323) 988-2400; F: (866) 802-0021
rlee@consumerlawcenter.com
Attorney for Plaintiff
DONALD & LINDA HUFF

**IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF ARIZONA**

COMPLAINT

DONALD & LINDA HUFF (Plaintiff), by their attorneys, KROHN & MOSS, LTD., alleges the following against PORTFOLIO RECOVERY ASSOCIATES, LLC (Defendant):

INTRODUCTION

1. Count I of Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA). According to the FDCPA, the United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the

1 loss of jobs, and to invasions of individual privacy. Congress wrote the FDCPA to
2 eliminate abusive debt collection practices by debt collectors, to insure that those debt
3 collectors who refrain from using abusive debt collection practices are not competitively
4 disadvantaged, and to promote consistent State action to protect consumers against debt
5 collection abuses. *15 U.S.C. 1692(a) – (e)*.

- 6 2. Plaintiffs bring this action to challenge Defendant's actions with regard to attempts by
7 Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by
8 Plaintiffs, and this conduct caused Plaintiffs damage.
- 9 3. Defendant acted through its agents, employees, officers, members, directors, heirs,
10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
11 insurers.

12 **JURISDICTION AND VENUE**

- 13 4. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such
14 actions may be brought and heard before "any appropriate United States district court
15 without regard to the amount in controversy".
- 16 5. Because Defendant maintains a business office and conducts business in the state of
17 California, personal jurisdiction is established.
- 18 6. Venue is proper pursuant to *28 U.S.C. 1331(b)(1)*.
- 19 7. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

20 **PARTIES**

- 21 8. Plaintiffs are natural persons who resides in the city of Mesa, Maricopa County, Arizona
22 and is allegedly obligated to pay a debt and is a "consumer" as that term is defined by *15*
23 *U.S.C. 1692a(3)*.
- 24 9. Defendant is a national company with a business office in Norfolk, Virginia.
- 25 10. Defendant uses instrumentalities of interstate commerce or the mails in any business the

1 principal purpose of which is the collection of any debts, or who regularly collects or
2 attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or
3 due another and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

4 **FACTUAL ALLEGATIONS**

- 5 11. Plaintiffs purchased a vehicle in the state of Illinois in 1997 which was financed by
6 Northwest Bank.
- 7 12. Plaintiffs attempted to refinance the vehicle through Northwest Bank and were denied.
8 Northwest told Plaintiff's they were going to repossess the vehicle and took possession
9 of said vehicle. Northwest Bank was subsequently purchased by Wells Fargo.
- 10 13. Defendant then assumed the alleged consumer debt from Wells Fargo.
- 11 14. Defendant constantly and continuously places collection calls to Plaintiff seeking and
12 demanding payment for an alleged consumer debt (see pictures of caller ID attached
13 hereto as Exhibit "A" and call log attached hereto as Exhibit "B").
- 14 15. Defendant constantly and continuously places collection calls from the number (877)
15 803-0008.
- 16 16. Plaintiffs sent defendant a cease and desist letter dated 11-11-08 (see letter attached
17 hereto as Exhibit "C"). Plaintiffs also requested that Defendant validate the alleged debt.
- 18 17. Defendant continued to contact Plaintiffs seeking and demanding payment for the
19 alleged debt after receiving Plaintiffs cease and desist letter.
- 20 18. Defendant failed to provide Plaintiffs with a 30 day validation notice.

21 **COUNT I**

22 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

- 23 19. Defendant violated the FDCPA based on the following:

- 24 a. Defendant Violated §1692c(c) of the FDCPA by contacting Plaintiffs after
25 receiving written notification that Plaintiff refuses to pay the debt, or that

1 Plaintiffs wants collector to cease communication.

- 2 b. Defendant Violated §1692d of the FDCPA by engaging in conduct the natural
3 consequence of which is to harass, oppress, and abuse Plaintiffs.
4 c. Defendant Violated §1692d(5) of the FDCPA by causing a telephone to ring and
5 engaging Plaintiffs repeatedly and continuously with the intent to annoy, abuse,
6 and harass.
7 d. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without
8 meaningful disclosure of callers identity.
9 e. Defendant violated §1692e(10) of the FDCPA by engaging in deceptive means to
10 collect a debt or obtain information about a consumer.
11 f. Defendant violated §1692f of the FDCPA by engaging in unfair practices and
12 unconscionable means to collect or attempt to collect an alleged debt.

13 20. As a direct and proximate result of one or more or all of the statutory violations above
14 Plaintiffs have suffered emotional distress (see Exhibit “D”).

15 WHEREFORE, Plaintiffs, DONALD & LINDA HUFF, respectfully requests judgment
16 be entered against Defendant, PORFOLIO RECOVERY ASSOCIATES, LLC, for the following:

- 17 21. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
18 Practices Act,
19 22. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
20 23. Actual damages,
21 24. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
22 *15 U.S.C. 1692k*
23 25. Any other relief that this Honorable Court deems appropriate.

24 **DEMAND FOR JURY TRIAL**

25 PLEASE TAKE NOTICE that Plaintiffs, DONALD & LINDA HUFF, demand a jury

trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: December 30, 2008

KROHN & MOSS, LTD.

By: /s/ Ryan Lee
Ryan Lee

Attorney for Plaintiff

1 **VERIFICATION OF COMPLAINT AND CERTIFICATION**

2 STATE OF ARIZONA

3 Plaintiff, DONALD HUFF, states as follows:

- 4 1. I am a Plaintiff in this civil proceeding.
- 5 2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe
that all of the facts contained in it are true, to the best of my knowledge, information
and belief formed after reasonable inquiry.
- 6 3. I believe that this civil Complaint is well grounded in fact and warranted by existing
law or by a good faith argument for the extension, modification or reversal of existing
law.
- 7 4. I believe that this civil Complaint is not interposed for any improper purpose, such as
to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the
Complaint.
- 8 5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
- 9 6. Each and every exhibit I have provided to my attorneys which has been attached to
this Complaint is a true and correct copy of the original.
- 10 7. Except for clearly indicated redactions made by my attorneys where appropriate, I
have not altered, changed, modified or fabricated these exhibits, except that some of
the attached exhibits may contain some of my own handwritten notations.

11 Pursuant to 28 U.S.C. § 1746(2), I, DONALD HUFF, hereby declare (or certify,
12 verify or state) under penalty of perjury that the foregoing is true and correct.

13 DATE: 12-30-08

14 
15 DONALD HUFF

21

1 **VERIFICATION OF COMPLAINT AND CERTIFICATION**

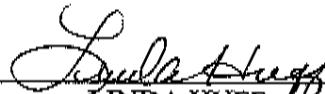
2 STATE OF ARIZONA

3 Plaintiff, LINDA HUFF, states as follows:

- 4 1. I am the Plaintiff in this civil proceeding.
- 5 2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe
that all of the facts contained in it are true, to the best of my knowledge, information
and belief formed after reasonable inquiry.
- 6 3. I believe that this civil Complaint is well grounded in fact and warranted by existing
law or by a good faith argument for the extension, modification or reversal of existing
law.
- 7 4. I believe that this civil Complaint is not interposed for any improper purpose, such as
to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the
Complaint.
- 8 5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
- 9 6. Each and every exhibit I have provided to my attorneys which has been attached to
this Complaint is a true and correct copy of the original.
- 10 7. Except for clearly indicated redactions made by my attorneys where appropriate, I
have not altered, changed, modified or fabricated these exhibits, except that some of
the attached exhibits may contain some of my own handwritten notations.

11 Pursuant to 28 U.S.C. § 1746(2), I, LINDA HUFF, hereby declare (or certify, verify
12 or state) under penalty of perjury that the foregoing is true and correct.

13 DATE: 12-30-2008

14 
15 LINDA HUFF

16
17
18
19
20
21
22
23
24
25

1 **EXHIBIT A**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

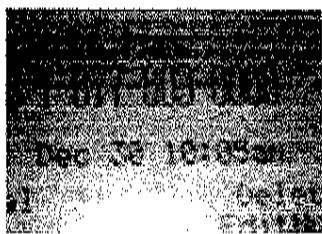
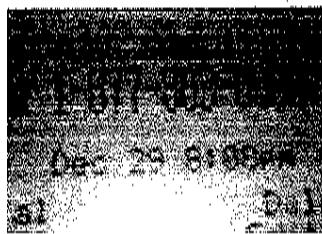
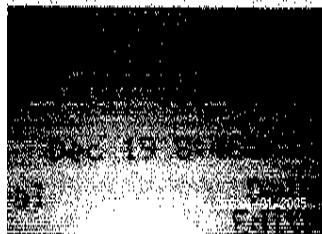
21

22

23

24

25



1 **EXHIBIT B**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

11-18-09

Tues 8⁴⁰/P - Army 1 877 803-000811-22- Computer call 1 877 803-0008
f. 8P11-23 computer call 1-877 803-0008
m 805m 11-24 Manama 1-877 803-0008
8ARe 11-28 no
440 answer
P on phone 1-866 532-966111-28
855/P Kathleen 1-866 532-9661m 12-1 Computer 1-877-803-0008
835/P call

18-08

every night including Sat. & Sun.

between 8-9 P - all computer calls.

12-19 8⁴⁶/_a computer call12-22 8⁰⁵/_P Computer call12-24 12⁴⁹/P Computer call12-27 1²⁹/_P - 866-532-9661

12-30 10:05 a.m 1-877 803-0008

1
2 **EXHIBIT C**
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Nov. 11,2008

**Donald E. Huff
652 S. Ellsworth Rd.
Lot. #24
Mesa, Az. 85208**

**Portfolio Recovery Assn.
P. O Box 12914
Norfolk, Va. 23541**

To Whom it may Concern

I am informed that your company is obligated to provide formal validation of an alleged debt that I have been receiving numerous phone calls and letters about. Please be advised that I am not requesting a verification that you have my mailing address. I am, however, requesting validation , I.e. formal documentation in accordance with my rights under the Fair Debt Collection Practices Act. Such documentation will include a detailed history and accounting of the account in question as well as a clear substantiation of its origin, legal assignation, and current status. Failure to provide such validation may abridge my civil rights, however deleting my phone number and address from your records and discontinuing to contact me will be accepted in lieu of further escalation. If you do feel the need to contact me, I now request in writing that it only be done through the mail, and that your company cease calling me by phone. Thank you for upholding the letter and the spirit of applicable statutes.

1 **EXHIBIT D**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|------------------------------|-----------------------------|
| 1. Sleeplessness | <input type="checkbox"/> YES | NO |
| 2. Fear of answering the telephone | <input type="checkbox"/> YES | NO |
| 3. Nervousness | <input type="checkbox"/> YES | NO |
| 4. Fear of answering the door | <input type="checkbox"/> YES | NO |
| 5. Embarrassment when speaking with family or friends | <input type="checkbox"/> YES | NO |
| 6. Depressions (sad, anxious, or "empty" moods) | YES | <input type="checkbox"/> NO |
| 7. Chest pains | YES | <input type="checkbox"/> NO |
| 8. Feelings of hopelessness, pessimism | <input type="checkbox"/> YES | NO |
| 9. Feelings of guilt, worthlessness, helplessness | <input type="checkbox"/> YES | NO |
| 10. Appetite and/or weight loss or overeating and weight gain | YES | <input type="checkbox"/> NO |
| 11. Thoughts of death, suicide or suicide attempts | YES | <input type="checkbox"/> NO |
| 12. Restlessness or irritability | <input type="checkbox"/> YES | NO |
| 13. Headache, nausea, chronic pain or fatigue | YES | <input type="checkbox"/> NO |
| 14. Negative impact on my job | YES | <input type="checkbox"/> NO |
| 15. Negative impact on my relationships | YES | <input type="checkbox"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: EXPLAINED MY WIFE'S PHYSICAL CRABISITION AND TOLD WHOEVER I WAS TALKING TO THAT THE CALLS HAVE TO STOP THEY ARE UPSETTING MY WIFE AND ME.

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 12-30-08

Donald Huff
Signed Name

Donald Huff
Printed Name

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|--------------------------------------|--------------------------|
| 1. Sleeplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 2. Fear of answering the telephone | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 3. Nervousness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 4. Fear of answering the door | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 5. Embarrassment when speaking with family or friends | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 7. Chest pains | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 8. Feelings of hopelessness, pessimism | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 9. Feelings of guilt, worthlessness, helplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 11. Thoughts of death, suicide or suicide attempts | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 12. Restlessness or irritability | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 13. Headache, nausea, chronic pain or fatigue | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 14. Negative impact on my job | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 15. Negative impact on my relationships | <input checked="" type="radio"/> YES | <input type="radio"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: _____

Since I have Cancer and am going through Chemotherapy and I am insulin dependent diabetic the stress of the phone calls is very upsetting - my husband explained this to them and she just got needs. I also have MS

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 12-30-2008

Linda K. Huff
Signed Name

Linda K. Huff
Printed Name